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FISCAL IMPACT STATEMENT

LS 6404 | **NOTE PREPARED:** Mar 18, 2014
BILL NUMBER: SB 176 | **BILL AMENDED:** Mar 13, 2014

SUBJECT: Central Indiana Transit.

FIRST AUTHOR: Sen. Miller Patricia | **BILL STATUS:** Enrolled
FIRST SPONSOR: Rep. Torr

FUNDS AFFECTED: X GENERAL | **IMPACT:** State & Local
X DEDICATED
X FEDERAL

Summary of Legislation: The bill provides for the establishment or expansion of public transportation services other than light rail in an eligible county through local public questions placed on the ballot under ordinances adopted by the fiscal body of the eligible county. It requires the Department of Local Government Finance (DLGF) to review and approve the language of a local public question.

The bill provides that Delaware County, Hamilton County, Hancock County, Johnson County, Madison County, and Marion County are eligible counties.

The bill authorizes eligible counties to fund approved public transportation projects through various parts of the local option income tax rates that are available under current law for other purposes. It also requires that fares must cover at least 25% of the operating costs of a transportation system established or expanded under the bill.

The bill requires that revenue raised from sources other than taxes and fares must: (1) equal at least 10% of the local option income tax revenue that the Budget Agency certifies that an eligible county will receive in the first year of operations of a public transportation project; and (2) cover at least 10% of the operating costs of a transportation system established or expanded under the bill in the second year and thereafter. It provides that eligible counties are responsible for covering any shortfalls in raising alternative revenues. The bill requires foundations to be established in eligible counties for the purpose of meeting the alternative revenue requirements.

The bill authorizes interlocal agreements, public-private partnerships, and bonding with respect to a public transportation project. The bill prohibits a political subdivision from using public funds to promote a position on a local public question regarding transit.

The bill provides that the provisions in the bill do not create a moral obligation of the state. It also specifies that no general revenues of the state may be used to pay for a transportation project or service under the provisions in the bill (but that this restriction does not apply to distributions from the Public Mass Transportation Fund).

The bill requires goals for participation by minority business enterprises, veteran business enterprises, and women's business enterprises in the development of a public transportation project.

The bill provides that the Public Mass Transportation Fund distribution formula is subject to annual review by the Budget Committee and approval of the Budget Director.

The bill authorizes the fiscal body of a township that is: (1) located in an eligible county in which the county fiscal body does not adopt an ordinance to place a local public question on the ballot; and (2) adjacent to either an eligible county in which a public transportation project has been approved or a township in which a public transportation project has been approved; to adopt a resolution placing a local public question on the next general election ballot in the township concerning the establishment of a public transportation public project in the township. It requires the county fiscal body to carry out a public transportation project approved by the voters of the township and fund it through local option income taxes imposed only upon the county taxpayers who reside in the township.

Effective Date: July 1, 2014.

Explanation of State Expenditures: *Department of State Revenue (DOR):* DOR will incur additional expenses to revise forms, instructions, and software applications. The DOR's current level of resources should be sufficient to implement this bill.

Department of Local Government Finances (DLGF): In addition to its regular budgetary and tax oversight responsibilities to local government units, which is impacted by the imposition of a LOIT in the bill, the bill requires the DLGF to approve any public transportation project public question prior to the question being placed on the ballot. The bill's requirements are within the agency's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

State Budget Agency: The Budget Agency will, in the first year of operations, certify the anticipated amount of LOIT revenue for each eligible county in order to determine the amount of alternative revenue that must be raised for a public transportation project. The Budget Director (with the Budget Committee) must also approve any proposed change to the distribution formula of the Public Mass Transportation Fund (PMTF). The bill's requirements are within the agency's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Indiana Department of Transportation (INDOT): INDOT administers the Public Mass Transportation Fund, which is derived from state General Fund dollars and is used to match federal transit funding as well as local funding. Total funding available for each of FY 2014 and FY 2015 is roughly $42.6 M. INDOT may currently adjust the distribution formula for the PMTF administratively. The bill requires that INDOT must receive approval from the Budget Director and the Budget Committee annually on the distribution formula used in administering the PMTF. The bill's requirements are within the agency's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Explanation of State Revenues: *Tax Exemptions:* Bonds issued for public transportation projects created by the bill, including interest and proceeds on the bonds, would be exempt from Indiana taxes, except for the Financial Institutions Tax and the Inheritance Tax. [Note: (1) Interest received on bonds issued by the state of Indiana or political subdivisions is currently exempt from Indiana income tax. (2) HEA 1001-2013 repealed the inheritance tax applicable to transfers by decedents who die after December 31, 2012.]

Explanation of Local Expenditures: *Ballot Question:* If the fiscal body of an eligible county adopts an ordinance to put a local public question regarding a public transportation project on the ballot, additional costs may be incurred in adding the question to existing ballots, if the election will be held at the primary, general, or municipal election at which all the registered voters of the eligible county are entitled to vote. However, if the question is placed in a special election, additional costs may accrue, including ballot printing costs and precinct election board expenditures. These additional costs are to be paid by the eligible counties.

Ballot questions in eligible counties regarding a public transportation project must first be approved by the DLGF before they are placed on the ballot.

If the public question is approved, the eligible county fiscal body must pass an ordinance to institute the taxes associated with the public question (the public question must include the specific tax rates associated with the proposed public transportation project). If the public question is defeated, the fiscal body may pass an ordinance to place the public question on the ballot again, not more than twice in any seven-year period. In addition a fiscal body of a township, under certain circumstances, may adopt a resolution placing a local public question on the next general election ballot in the township concerning the establishment of a public transportation public project in the township.

The bill states that a political subdivision may not promote a position on the local public question that uses public employees, public resources, or public funds in order to support that position. Public officials may personally advocate for or against a position on a local public question, as long as it is not done by using public funds.

Explanation of Local Revenues: *Summary:* This bill authorizes additional LOIT collections to fund a public transportation project. In addition, the bill authorizes townships within an eligible county to mandate the county fiscal body impose a LOIT on their township residents to fund a public transportation project under certain conditions. For more details, please see *Additional Information* below.

The bill defines a public transportation system as any common carrier of passengers for hire and defines a public transportation project as an action to plan, design, acquire, construct, enlarge, improve, renovate, maintain, equip, or operate a public transportation system in an eligible county. A public transportation project may not include light rail. According to the bill, an eligible county may carry out only one public transportation project.

If a public transportation project is created under the bill, at least 25% the operating expenses of the public transportation system must be paid for through fares.

The bill requires that public transportation projects must raise certain amounts of alternative revenue from sources other than taxes and fares. Eligible counties are to establish foundations that are nonprofit corporations in order to assist in raising these required funds.

According to the bill, the purchase of equipment or other personal property that has a useful life of three years or more is considered a capital expenditure.

The bill authorizes eligible counties to utilize interlocal agreements, public-private partnerships, and bonding with respect to public transportation projects and public transportation systems. Any bonds associated with a public transportation project may not have a maturity longer than 20 years, and eligible counties may not levy ad valorem property taxes to repay these bonds. Additionally, bonds issued to pay for public transportation projects do not constitute a moral obligation on the part of the state. No general tax revenues (with the exception of Public Mass Transportation Fund distributions) may be used to pay for a public transportation project. Any public transportation project must provide transportation services throughout the eligible county and must be made available to all citizens of the county.

A public transportation project must require goals for participation by minority business enterprises, veteran business enterprises, and women's business enterprises.

Additional Information - Local Option Income Taxes (LOIT) - Counties: This bill grants Delaware, Hancock, Johnson, and Madison Counties the authority to impose an additional rate under the LOIT for Property Tax Levy Freeze (LFPL) to fund an approved public transportation project. The LFPL was initially established as a supplemental rate component that allows local governments to 'freeze' their property tax levies and use the income tax revenue to replace the foregone property tax levy increases. The LFPL can be adopted under either the County Adjusted Gross Income Tax (CAGIT) or the County Option Income Tax (COIT). The LFPL rate may not exceed 1.0%.

The additional rate must be at least 0.10% and may not exceed 0.25%. The certified distribution attributable to this component of the LFPL may only be used to fund the public transportation project. It may not be used as a property tax replacement distribution. This bill does not alter the existing rate limitations for the specified tax, it only provides a new use for the revenue.

This bill authorizes Hamilton County and Marion County to use the revenue collected from the additional County Economic Development Income Tax (CEDIT) for Homestead Relief rate to fund an approved public transportation project. The CEDIT for Homestead Relief was initially established to allow counties to exceed the statutory LOIT rate limits by 0.25% to provide additional homestead and residential credits to mitigate the effects of the 100% business inventory deduction on homeowners and other residential property owners. Currently, neither Marion County or Hamilton County have imposed this rate. This bill does not alter the existing rate limitations for the specified tax, it only provides a new use for the revenue.

The table below contains estimates of the potential revenue the counties could collect if they impose the full 0.25% rate in the respective LOITs.

Potential LOIT Revenue at a 0.25% Rate ($ in Millions)		
County	**CY 2015**	**CY 2016**
Delaware	$4.43	$4.53
Hamilton	$30.56	$32.38
Hancock	$4.57	$4.72
Johnson	$9.16	$9.52
Madison	$5.19	$5.35
Marion	$44.49	$45.63

LOIT - Townships: The bill authorizes townships within an eligible county to mandate that the fiscal body of the county impose a LOIT on their resident taxpayers to fund a public transportation project. A township may impose the appropriate LOIT under the following conditions. First, the public question held by the county must be defeated. Then, the township must be located next to either a county or another township that has approved a public transportation project. Also, a public question must be approved by the township residents. Once all the conditions have been met, the county must impose the township LOIT.

The additional rate must be at least 0.10% and may not exceed 0.25%. The certified distribution attributable to the appropriate LOIT may only be used to only fund the public transportation project. This bill does not alter the existing rate limitations for the specified tax; it provides a new use for the revenue and allows townships to set LOIT rates for this special project. (An expanded table at the end of the fiscal note contains LOIT estimates by the potentially eligible townships.)

Farebox Revenue: The bill requires that at least 25% of the operating expenses of a public transportation system be paid for out of fares or charges to consumers utilizing the system. This likely will require the increase of fare revenue in the event that a public transportation project is approved in an eligible county that already operates a public transportation system, although the exact fare increase (per rider) that will be necessary to fulfill this requirement is unknown at this time. IndyGo, the public transportation corporation operating Marion County's current public transportation system, has fare revenue that generates roughly 17% of its total operating expenses (as of 2012).

Alternative Revenue: Any public transportation project must, for the first year of operations, raise an amount from sources other than taxes and fares that is equal to at least 10% of the revenue that the Budget Agency certifies that the eligible county will receive from LOIT revenue for the public transportation project. For each year thereafter, an amount must be raised from sources other than taxes and fares that is equal to at least 10% of the annual operating expenses of the public transportation project. These alternative revenues will be deposited in a county public transportation fund.

The state Budget Agency will assist the fiscal bodies of eligible counties in determining these required alternative funding amounts each year. If an eligible county is unable to raise the required alternative revenue in a given year, the county in which the public transportation project is located is responsible for paying the difference.

In order to raise the required amount of alternative revenue, eligible counties are to establish foundations that are organized as nonprofit corporations that are exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code to solicit and accept private funding, gifts, donations, bequests, devices, and contributions to meet the alternative revenue requirements of the bill. In Marion County, the foundation will be established by IndyGo. In all the other eligible counties, the foundations will be established by the board of commissioners of the county. In all cases, the foundations will be governed by seven-member boards of directors.

State Agencies Affected: Department of State Revenue; Department of Local Government Finance; Indiana Department of Transportation; State Budget Agency.

Local Agencies Affected: Delaware, Hamilton, Hancock, Johnson, Madison, and Marion Counties, as well as the townships located within those counties.

Information Sources: LSA Income Tax Database, U.S. Census Bureau, *2007-2011 American Community Survey 5-Year Estimates: DP03 Selected Economic Characteristics*, Retrieved on December 2, 2013. U.S. Census Bureau, *Annual Population Estimates for Indiana's Minor Civil Divisions by County*, January 1, 2012; State Budget Agency, *2013 - 2015 Revenue Forecast*, April 16, 2013; *IndyGo 2012 Comprehensive Annual Financial Report* (www.indygo.net/inside-indygo/financial-information/historical-financial-information); *Indiana Handbook of Taxes, Revenues, and Appropriations* (Fiscal Year 2013).

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Estimated Potential LOIT Revenue at a 0.25% Rate by County and Township ($ In Millions)			
County	**Township**	**CY 2015**	**CY 2016**
Delaware		**$4.43**	**$4.53**
	Center Township	2.04	2.10
	Delaware Township	0.18	0.19
	Hamilton Township	0.34	0.34
	Harrison Township	0.22	0.22
	Liberty Township	0.20	0.20
	Monroe Township	0.17	0.17
	Mount Pleasant Township	0.80	0.83
	Niles Township	0.07	0.07
	Perry Township	0.05	0.05
	Salem Township	0.18	0.18
	Union Township	0.11	0.11
	Washington Township	0.07	0.07
Hamilton		**30.56**	**32.38**
	Adams Township	0.34	0.36
	Clay Township	11.65	12.35
	Delaware Township	3.12	3.31
	Fall Creek Township	5.94	6.28
	Jackson Township	0.87	0.92
	Noblesville Township	4.58	4.86
	Washington Township	3.28	3.47
	Wayne Township	0.60	0.64
	White River Township	0.18	0.19
Hancock		**4.57**	**4.72**
	Blue River Township	0.11	0.11

Estimated Potential LOIT Revenue at a 0.25% Rate by County and Township ($ In Millions)			
County	**Township**	**CY 2015**	**CY 2016**
	Brandywine Township	0.15	0.15
	Brown Township	0.14	0.15
	Buck Creek Township	0.63	0.65
	Center Township	1.58	1.64
	Green Township	0.11	0.11
	Jackson Township	0.14	0.14
	Sugar Creek Township	1.05	1.08
	Vernon Township	0.66	0.69
Johnson		**9.16**	**9.52**
	Blue River Township	0.19	0.20
	Clark Township	0.17	0.18
	Franklin Township	1.01	1.04
	Hensley Township	0.20	0.21
	Needham Township	0.45	0.48
	Nineveh Township	0.20	0.21
	Pleasant Township	3.13	3.25
	Union Township	0.18	0.19
	White River Township	3.63	3.76
Madison		**5.19**	**5.35**
	Adams Township	0.19	0.19
	Anderson Township	1.96	2.00
	Boone Township	0.04	0.05
	Duck Creek Township	0.02	0.02
	Fall Creek Township	0.58	0.60
	Green Township	0.34	0.35
	Jackson Township	0.11	0.12
	Lafayette Township	0.20	0.20

Estimated Potential LOIT Revenue at a 0.25% Rate by County and Township ($ In Millions)			
County	**Township**	**CY 2015**	**CY 2016**
	Monroe Township	0.34	0.35
	Pipe Creek Township	0.48	0.50
	Richland Township	0.26	0.27
	Stony Creek Township	0.17	0.18
	Union Township	0.43	0.44
	Van Buren Township	0.07	0.08
Marion		**44.49**	**45.63**
	Center Township	5.06	5.19
	Decatur Township	1.37	1.41
	Franklin Township	3.04	3.12
	Lawrence Township	6.97	7.15
	Perry Township	5.16	5.29
	Pike Township	4.50	4.61
	Warren Township	4.06	4.16
	Washington Township	9.16	9.40
	Wayne Township	5.17	5.30